

THE HON'BLE SRI JUSTICE P.S.NARAYANA

-
WRIT PETITION NO.26400 of 2006

-
DATED 20.12.2006

-
Between:

Smt.Rama Devi.

...

PETITIONER

versus

The Municipal Corporation of
Hyderabad, BRKR Buildings,
Hyderabad, represented by its Commissioner. ...
RESPONDENT

WRIT PETITION NO.26400 of 2006

ORDER:

The matter is coming up for admission today. Smt.Jyoti Kiran,
learned Standing Counsel, takes notice on behalf of respondent.

2. Sri Posani Venkateswarlu, learned counsel representing the writ
petitioner would submit that similar matters, as that of in this Writ
Petition, in Writ Petition Nos.6470 and 6471 of 2005, dated 13.4.2005
and Writ Petition No.5834 of 2006, dated 24.3.2006 were disposed of
with certain directions and the present Writ Petition also may be
disposed of in the light of the said orders.

3. The Writ Petition is filed for a Writ of Mandamus declaring the
action of the respondent in not receiving and not considering the
application of the petitioner for grant of building permission in respect
of plot No.18 of S.No.74/9, East Maredpally, Secunderabad, as illegal,
contrary to law, arbitrary and consequently direct the respondent to
consider the application of the petitioner for grant of building
permission subject to giving undertaking to demolish the building in

the event of Government succeed in LGC case as ordered by this Court in similar WP Nos.6470/2005 and 6471/2005, dated 13.4.2005 and pass such other suitable orders.

4. It is stated that the petitioner is the absolute owner and possessor of plot bearing No.18, admeasuring 266 square yards or 222.37 square meters in S.No.74/9 situated at East Maredpally village, Secunderabad. It is also stated that the said plot is covered under the approved layout approved by the respondent-Corporation in file No.31/Open/10/81/80. It is further stated that the petitioner submitted an application to the respondent-Corporation for obtaining building plan approval, but the said application was refused to be received and considered by the respondent stating that there is a Land Grabbing Case in the Special Court in relation to the said plot. Further it is stated that in similar circumstances, the Court passed orders in the Writ Petitions already referred to supra.

5. This Court by order dated 13.4.2005, disposed of Writ Petition No.6470 of 2005 with the following direction:

“Accordingly, following the decision of the Division Bench in WA No.61 of 2000, the impugned order dated 1.2.2005 is set aside and the Writ Petition is disposed of with a direction to the respondents to consider the building application of the petitioner afresh, in accordance with law, subject to the condition that the petitioner furnishes an undertaking before the respondents stating that in case LGC No.167 of 1997 pending on the file of the Special Court is decided in favour of the Government, he shall remove the structures without claiming any equitable relief. It is made clear that any such constructions made by the petitioner are at his own cost and risk”.

6. In the light of the same, the impugned order in the present Writ Petition is hereby set aside and the Writ Petition is disposed of

directing the respondent to consider the building application of the petitioner afresh in accordance with law subject to the condition of the petitioner furnishing an undertaking before the respondent stating that in case LGC No.167 of 1997, pending on the file of the Special Court, is decided in favour of the Government, she shall remove the structures without claiming any equitable relief and any constructions which would be made by the petitioner would be at her risk and cost. There shall be no order as to costs.

20.12.2006

SSR